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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/718,936	11/20/2003	Jeffrey Douglas Brown	AUS920030612US1	3162	
45327 IBM CORPOR	7590 06/13/200 ATION (CS)	EXAMINER			
C/O CARR LLP 670 FOUNDERS SQUARE 900 JACKSON STREET			PASIA, REDENTOR M		
			ART UNIT	PAPER NUMBER	
DALLAS, TX	75202	2616			
			MAIL DATE	DELIVERY MODE	
			06/13/2008	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Exhibition to the marky be available under the provisions of 37 CFR 1136(a). Into event, however, may a reply be trievly filed.  If NO period for reply is appoiled above, the maximum statutory parted will apply and will expres SIX (8) MONTHS from the mailing date of this communication. Failure to reply will will be set of center date from the mailing date of this communication, even if trievly filed, may reduce any statutor partition and application.  Failure to reply will mit be set or extended period for reply will by statute, cause the application become ABANDOCHE (36 U.S.C. § 133). Any reply received by the Critic lear that these mortins after the realing date of this communication, even if trievly filed, may reduce any statute plant in an application.  Status  1) Responsive to communication (s) filed on 20 March 2008.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-14 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are rejected.  7) Claim(s) is/are rejected.  7) Claim(s) 1-14 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) cacepted or b) objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  11) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) Mone of:  11 Certified copies of the priority documents hav		Application No.	Applicant(s)					
REDENTOR M. PASIA   2616	Office Action Commence	10/718,936	BROWN ET AL.					
- The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MALING DATE OF THIS COMMUNICATION.  Followshow from many to availation used the provisions of 37 CF1. 13(bit), in a owent, however, may nephy be limited (and of the provision of Claims  4) □ Claim(s) 1.14 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) □ Claim(s) 1.14 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) □ Claim(s) 1.14 are subject to restriction and/or election requirement.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is equired if the drawing(s) is objected to by the Examiner.  10) □ The drawing(s) filed on is including the correction is equired if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) □ All b □ Cartified copies of the priority documents have been received in Application No. □ Cartified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.	Oπice Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extractions of time many by a similable under the provisions of 37 CFR 1.39(a). In no event, however, may a may be timely filled.  - Faither the right is specified drough, the mischine shaltenty period will agricult and the reliable of the provisions of 37 CFR 1.39(a). In no event, however, may a may be timely filled.  - Faither to right vallen the end or contended promotion for major will, by advants, cause the application to buccome ARABOCHETO, (35 U.S.C. § 133), and an end of patients to income ARABOCHETO, (35 U.S.C. § 133).  - Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  - Disposition of Claims  4) Claim(s)1.14 is/are pending in the application.  4a) Of the above claim(s)is/are withdrawn from consideration.  5) Claim(s)is/are rejected.  7) Claim(s)is/are rejected.  7) Claim(s)is/are explicated to by the Examiner.  10) The specification is objected to by the Examiner.  10) The specification is objected to by the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) be decided not provided the drawing(s) be decided to a provided the drawing(s) be decided to a posterior of the priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * C) None of:  1.   Certified copies of the priority documents have been received in Application No  3.   Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certi		REDENTOR M. PASIA	2616					
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1)   Responsive to communication(s) filed on 20 March 2008.   2a	<ul> <li>WHICHEVER IS LONGER, FROM THE MAILING DA</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period w</li> <li>Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing</li> </ul>	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	l. ely filed the mailing date of this communication. (35 U.S.C. § 133).					
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## **DETAILED ACTION**

## Election/Restrictions

- 1. This present restriction is made in order to replace the previous restriction (mailed on 2/22/2008) which was concluded by the Examiner to be in error. The Examiner respectfully apologizes for the inconvenience caused to the Applicant and the Applicant's Attorney(s).
- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claim 1, drawn to an apparatus for providing distributed access control load shaping, classified in class 370, subclass 230.1.
  - II. Claims 2 and 10, drawn to a method of bus activity BW (bandwidth) management for use by a plurality of BW managed and unmanaged entities wishing to transmit data over said bus, classified in class 370, subclass 232.
  - III. Claims 3-5, drawn to a shaper apparatus for use in connection with a bus request queue manager of a data transfer system, classified in class 370, subclass 451.
  - IV. Claim 6, drawn to a shaper apparatus for access restriction control in a best efforts queue which prevents access to a communications path

based on predetermined parameters, classified in class 370, subclass 395.21.

- V. Claim 7-9, drawn to a shaper apparatus for access provision control in a special queue which provides access to a communications path based on predetermined parameters, classified in class 370, subclass 395.41.
- VI. Claims 11-14, drawn to a method of queuing data packets for transmission from a source to a target over a multiplexed path, classified in class 370, subclass 415.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III, IV, V and VI are directed to related product/process. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed shows:

Invention I is more involved to a shaper means which bases permission of access based upon comparison of payload class against class restriction status.

Invention II is directed to method for bandwidth management for use by BW managed entities as well as BW unmanaged entities.

Invention III is directed to a shaper apparatus associated with a bus request queue manager which also specifically presents a counter mechanism.

Invention IV is directed to a shaper apparatus for access restriction control in a best efforts queue which prevents access to a communications path based on predetermined parameters.

Invention V is directed to a shaper apparatus for access provision control in a special queue which provides access to a communications path based on predetermined parameters.

Invention VI is more involved in queuing data packets for transmission from a source to a target; also further utilizes a first queue and a second queue.

Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

- 4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:
  - (a) the inventions have acquired a separate status in the art in view of their different classification;
  - (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
  - (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

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(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C.101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable

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over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

## Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REDENTOR M. PASIA whose telephone number is (571)272-9745. The examiner can normally be reached on M-F 7:30am to 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Aung Moe can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/ Supervisory Patent Examiner, Art Unit 2616 /Redentor M Pasia/ Examiner, Art Unit 2616